

REMARKS/ARGUMENTS

Claims 1-25 are currently pending in the present application. In Applicant's July 18, 2005 Amendment, a Replacement Sheet of drawings and a Terminal Disclaimer were filed and accepted. The Declaration of Charles Byrne, inventor of the claimed subject matter, was also filed. This Declaration set forth the facts to show that the inventor had conceived of and reduced to practice the invention before the January 31, 2002 filing date of the Levin et al. reference. However, in the October 5, 2005 Final Office Action, the Examiner asserted that the evidence submitted was insufficient to establish a conception of the invention prior to the effective date of the Levin et al. reference. In particular, the Examiner noted that the Affidavit or Declaration must establish possession of either the whole invention claimed or something falling within the claim, such as a species of a claim genus, in the sense that the claim as a whole reads on it. The Examiner indicated that the Declaration filed by the Applicant referred mostly to the structure of the part being manufactured, instead of the process of manufacturing as recited in the claims.

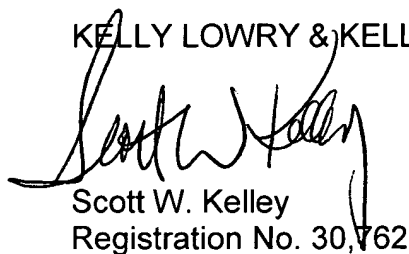
In response, Applicant submits herewith a new Declaration of Applicant Charles Byrne which Applicant believes overcomes these objections. More particularly, the Declaration not only sets forth the time periods of conceiving the invention, but more particularly provides evidence and proof of Applicant's reduction to practice of the claimed invention of the instant application. Mr. Byrne declares that after discovering that the metal bead and all metal within the tire must be removed so as not to injure the dog, he contacted several Chinese factories to make an animal chew toy composed of tire rubber and in a tire configuration without metal beads. Mr. Byrne determined that nylon mesh material embedded within sheets of rubber would serve this purpose. Mr. Byrne worked with a Chinese factory to produce sample items in the Spring and early Summer of 2001. Mr. Byrne declares the process steps in creating this animal

chew toy, which are recited in the claims of the instant application. The resulting animal chew toy was then shown in a trade show in June of 2001. Thereafter, late 2001, the process was slightly modified and perfected so as to mass produce the animal chew toy. This resulted in a first retail order in March of 2002, and the subsequent filing of the provisional application, upon which the present application claims priority.

This Declaration provides ample evidence that the process by which the pet chew toys have been manufactured, and as claimed in the instant application, were both conceived and reduced to practice well before the Levin et al. filing date. Thus, Applicant respectfully submits that the Declaration establishes that Applicant had possession of the invention prior to the teachings of Levin et al., and that this reference should be withdrawn.

Respectfully submitted,

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